



**RICK BOUCHER**  
8TH DISTRICT, VIRGINIA

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**Congress of the United States**  
**House of Representatives**

WASHINGTON OFFICE:  
2187 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
D22 225-3861  
e-mail: NINTHNET@MAIL.HOUSE.GOV  
WWW: <http://www.house.gov/boucher/>

CONSTITUENT SERVICE OFFICES:  
188 EAST MAIN STREET  
ARLINGTON, VIRGINIA 22210  
(844) 838-1145  
1 CLOVERLEAF SQUARE  
SUITE C-1  
BIG STONE GAP, VIRGINIA 24219  
(844) 823-5460  
106 NORTH WASHINGTON AVENUE  
P.O. BOX 1288  
FALLS CHURCH, VIRGINIA 22031  
(844) 880-4370

**Congressman Rick Boucher**  
2187 Rayburn House Office Building  
Washington, D.C. 20515  
202.225.3861  
Fax: 202.225.0442

To: Chairman Powell

Date: \_\_\_\_\_

Fax: 418-2801

Pages: \_\_\_\_\_

From: Johanna Mikes  
Legislative Counsel

Letter from Stearns/Boucher et al  
re Auction 35/Nextwave opt out  
Call with any questions

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Congress of the United States

Washington, DC 20515

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October 4, 2002

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OCT 25 2002

The Honorable Michael Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> street, SW  
Washington, DC 20554

Federal Communications Commission  
Office of the Secretary

Dear Chairman Powell,

Re; WT Docket No. 02-276

The **time** has come for the FCC to take action to alleviate a serious financial burden **harming** the wireless **segment** of the troubled telecommunications **industry** - the \$16 billion capital overhang from the **January** 2001 Auction **35**. As co-sponsors of H.R. 4738 we urge you **to** move quickly and implement **an** opt-out regime for bidders in Auction **35**.

It **has** been 20 months since the **January** 2001 close of Auction **35**, and yet the increasingly convoluted NextWave litigation **has** prevented the FCC **from** delivering spectrum licenses to the winning bidders. As a result of the litigation, the FCC **has** given the **spectrum** licenses to NextWave but **has** not relieved the bidders of their Auction **35** obligations. In light of these circumstances, the **FCC** should permit carriers to opt out of their Auction **35** obligations.

Circumstances in the telecommunications sector have changed dramatically over the past 20 months, **as** have the industry's urgent public safety priorities. The **516** billion contingent liability **on** the books of almost all the major carriers in the wireless industry is harming consumers, **stifling** investment, and slowing potential recovery of **this** important **industry** sector.

We have seen the benefits the **wireless** industry **has** brought to 137 million consumers, particularly in the area of public safety. It is critical that we **keep** these wireless providers financially sound. Bidders in Auction **35** **serve** the vast majority of wireless customers. We do not wish to see wireless companies fall into bankruptcy **as** we have recently seen with wireline providers. We are deeply concerned that the telecommunications meltdown **has** resulted in bids that are, in some cases, ten times the current market cap of the company that made **them** - thus reinforcing the unfairness of keeping stale bids in force **as** the litigation drags **on**.

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The Honorable Michael Powell

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In the period since ~~the~~ end of Auction 35, in ~~January~~ 2001, to July of this year major wireless service providers and manufacturers have lost **over \$850 billion**, or **65 percent**, in market value according to a recent economic study. **During** that **same** period the telecommunications industry laid **off** nearly a quarter of a **million** workers. Allowing opt-out can help reverse **this decline**, and stimulate job growth by freeing up \$16 billion in wireless industry capital.

We support your public notice **seeking** comment on Auction 35 opt-out procedures, however, **we are** very concerned about the extended comment period for **this** proceeding. We urge you to expedite **this** matter and implement **an** opt-out regime quickly **so** that the wireless **industry** can get back to the business of serving customers.

Given ~~the~~ special circumstances of this auction, and the inability of the **FCC** to deliver licenses **to** bidders it would be inappropriate for **any PCC** opt-out regime to penalize bidders who choose to use the new procedures. Penalizing **these** bidders would have a negative financial impact on **future** auction revenues.

We urge you to implement opt-out quickly.

Sincerely,

Cliff Jones

Rick Boucher

Al Bass

Ed Bryant

Greg Fickens

Mila Shomson

Paul Hillman

Ed/Chris.

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<u>Maryson</u>	<u>John S. H. 11.30</u>
<u>Zee Salzer</u>	<u>Jo Miller</u>
<u>Tom Sawyer</u>	<u>Bobby Lester</u>
<u>He He</u>	<u>Bart Gordon</u>
<u>Carol</u>	<u>Albert R. Allen</u>
<u>James Davis</u>	<u>Art Long</u>
<u>Randy Quilley</u>	<u>Bart Szpak</u>
<u>Joe Barton</u>	<u>Ralph M. Hall</u>
<u>James Greenwood</u>	<u>Frank Yates</u>

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